

DMR ADVISORY COUNCIL MEETING
August 9, 2004, 1:00 p.m.
Minutes

A meeting of the Department of Marine Resources' (DMR) Advisory Council (AC) was held on this date at the Department of Human Services Central Offices Conference Room, 442 Civic Center Drive, Augusta. AC members attending this meeting included **Dana Rice, Sr. - Chair, Blair Pyne, Allyson Jordan, David Turner, Ralph Smith, Rod Mitchell, Larry Knapp, Al West, Craig Pendleton, David Pecci, Mike Danforth, Bill Sutter and Scott Tilton.** Council member **Dana Temple** was unable to attend. Department staff included Commissioner George Lapointe, Deputy Commissioners Lewis Flagg and David Etnier, Major John Fetterman, Lt. Alan Talbot, Deirdre Gilbert, Terry Stockwell, Margaret Hunter, Linda Mercer, David Libby, Heidi Bray and L. Churchill. Other attendees included Sherman Hoyt, Dean Norris, Jim Wadsworth, Chris Byers, Joseph Leask, Ben Baron-Taltre and Susan Jones (Commercial Fisheries News).

1. Welcome

Chair Dana Rice called the meeting to order shortly after 1:00 pm. Announcements: Al West and Scott Tilton would arrive shortly as they were held up in traffic. Dana Temple was unable to attend as he was in a motorcycle accident on Sunday resulting in several broken bones. It is hoped he gets well soon.

2. Approval of minutes (Handout)

Motion: (B. Pyne, D. Turner) *Unanimous. Motion to approve the minutes of the meeting held April 21, 2004 as written.*

3. Regulations - Action (voting)

The Chair reminded the audience that they are not permitted to comment on rulemaking voting items as instructed by the Attorney General's Office in compliance with the rules.

Chapter 26.15 Sea Urchin Harvester License Limited Entry System

Margaret Hunter reviewed the history of the regulation from a moratorium and lottery changes to this year when the Sea Urchin Zone Council (SUZC) requested no lottery for the next few years due to the poor stock status. This cancels the lottery held in March 2004 and future lotteries for now. Comm. Lapointe added that this has also come about due to the shortened season he has proposed.

Motion: (B. Pyne, R. Mitchell) *To accept as written.*

Discussion: Whether this should/could be revisited annually; entrants; the use of imminent depletion as the cause for the rule and what does it mean; and how to avoid the use of this rule to keep others out of the fishery.

Comm. Lapointe explained that regulations might be revisited at any time; the use of sunsets on rules has their own types of problems and indicated caution be used to not whip-saw either on the rules. This matter needs to be further discussed with the SUZC. (Scott Tilton arrived.)

Motion continued: *Unanimous.*

Chapter 26.07(1) Sea Urchin Harvesting Season 2004-2005 – Zone 1

Chapter 26.07(2)(A)&(B) Sea Urchin Harvesting Season 2004-2005 – Zone 2

Comm. Lapointe reviewed the history of his position on the proposed Zone 1 season that was initiated at the Fisherman's Forum in March this year. His reasoning for such a strict season has been based on

lots of information including availability, biomass, models, without the models, the dramatic decline in Zone 1, etc. If a description of the urchin abundance in Zone 1 were substituted with lobster or herring it would be called a disaster.

R. Smith requested to discuss both Zone 1 and 2 seasons together, not separately and the Chair approved with a general consensus from the members.

Comm. Lapointe continued: He reviewed the biomass and survey numbers from the Zone 2 season basis statement. He added that much can be told without doing a survey on this fishery. The impact is acknowledged. Even with the strict seasons Dr. Steneck and Dr. Wahle advised the Commissioner that the decline might continue, in both zones.

B. Sutter (member and past chair of the SUZC) described his reasoning for opposing the proposed seasons. The biomass shouldn't include fishing below where the urchins cannot reproduce. Dr. Harris has 2 decades of settlement research. A decade ago settlement was in the 10,000's per meter squared; now 1,000/m². Recruitment in Southern Maine is low; in Eastern Maine it is lower but has a higher survival. The decline 2-3 years ago was due to die-offs caused by unknown reasons; over the past 5-6 years there has been a predatory explosion of the Jonah crab and the Irish moss has returned. Survival of urchins increased last year, see minutes of the July 8, 2004 SUZC meeting. Dr. Harris indicated the 2-year olds were not eaten this year. This indicates the urchins have cycles that have nothing to do with harvesting. The drop off in landings is due to harvesters getting out of the fishery (2300 a decade ago down to 300 last year) and twice cutting effort by 50% (last year and 3 years ago) on paper. Many dropped out of Zone 1 due to the previous cuts in days because they can't afford to live on the fishery, which means the ability to harvest has been reduced due to management measures too. Current participants tell the SUZC they are doing ok even in Zone 1. In his opinion there are places that urchins live well and other places that they do not. At this time they are back in the places they just do well. The reductions are over zealous and should not be as deep as proposed. The industry season rejected by the Department was based on keeping the processing infrastructure viable with a 30% reduction of days in Zone 2 (94 to 64 days) and a reduction in Zone 1 from 94 days to 40 days.

B. Pyne served on the SUZC for 5 years (2 years as chair and 2 years vice-chair) and every year that council had the same discussion. They struggled going from 150 days to 120 days. But the overall fundamental problem is having a group of individuals, part of co-management, that struggle taking money from their own pockets. In any industry this is difficult and the urchin industry has not been able to do this. One year the SUZC voted to reduce the season from something like 90 to 60 days only to have a different group attend the next meeting and rescind that vote. This sort of problem is why we are here now. If 8 years ago we'd gone to 40 days we most likely wouldn't be here today. Co-management in this case didn't work. It's human nature not to vote to take money from your own pocket. The resource was dropping 7 years ago. If Dr. Harris is right, now is the time to cut back. This needs objectivity as bad as it seems even though the Zone 2 landings seem level in the long run the industry will benefit.

S. Tilton: Was the die-off investigated? M. Hunter: In '99 there was a severe die-off in the Outer Islands and in '00 and '01. At the time the paramoeba that has caused die-offs in Nova Scotia was looked for and not found however, more recently tests for this have been positive for its presence likely due to warm temperatures. Caution should be used to blame lower numbers of urchins on natural causes.

Comm. Lapointe: There was a huge urchin population in the later '80's and early '90's with 38 million lbs taken in one year, which can't be ignored. If we have this paramoeba now then we have to adjust to that. Regarding Bill's comments about settlement and survival and last year's one year's worth of sampling from the Isle of Shoals, we just don't know what this means long term.

S. Tilton: It was not his intention to debate the season instead to suggest that unless we do know then the industry may be threatened and not recover.

(Al West arrived)

The Chair asked B. Sutter to clarify statements by Dr. Harris. B. Sutter continued and explained that the stock status should be based on sufficient biomass to reproduce. The separate models by scientists at UMO suggest a large existing unexploitable biomass, offshore, which the extent of has not been determined.

L. Knapp: During his years lobster fishing the urchins were low in the 60's, boomed in the 70's when they took over the bottom. Lobstermen have played a role in their reduction. Calls he has received are from

persons worried about the infrastructure problems similar to shrimp last year. Two 15-day seasons and tote limits were suggested to target higher percentage eggs. However, he did not disagree with the Department's information.

R. Smith indicated that if you include the green card harvesters in the early 90's and the non-licensed tenders in '92-'93 there were ~2,700 in those early years. This number decreased to 742 last year. The decrease is due to the under size limit, over size limit, decreased number of days, decreased landings whereas the Downeast statistics 2 years ago show an increase. In his opinion the minimum and maximum will sustain the fishery. There will be even fewer days than proposed due to bad weather. The Downeast resource appears to be building with less harvesters.

Comm. Lapointe: regarding biomass and reproductive capacity there needs to be enough biomass for a good fishery and we are past that point. As Blair stated if we'd cut then we might have a \$15 million industry now. Regarding Dr. Harris's recent findings at Isle of Shoals, at the first meeting with the SUZC this year Dr. Harris said the resource needs drastic help but not a closure. Dr.'s Steneck and Wahle both expressed concern that the stock may not turn around. Regarding tote limits it would not provide enough of a reduction to work with at this time. We asked the industry in Cobscook Bay about this and they were not interested; and enforcement was asked and said they would try but this needs to be further explored. We acknowledge that licenses have decreased, which means the best harvesters are left and therefore the catch per unit of effort has increased; bad weather will reduce the season by 1/3 on average over time therefore a 45 day season means 30-35 days and this is taken into account.

L. Knapp stated that one caller asked for the SUZC to be elected in the same manner as the Lobster Advisory Council/lobster Management Councils.

Comm. Lapointe: These and other suggestions need to be looked at. Remember there are over 160 lobster districts with approximately 100 members pre local area and the localized area is why it works. To do this for the urchin industry would require legislation.

D. Pecci also received call and also called a diver he knew who used to fish Casco Bay. The fisherman indicated he hoped the season wouldn't be as drastic but realizes that the habitat has changed leaving the smalls and the urchins are gone and in his opinion enforcement has been poor. Need to look at the industry long term even though you don't want to put anyone out.

B. Pyne indicated that the council should use caution, as this is the same discussion held 10 years ago on the same subject. Back then Zone 1 had just enough urchins on the bottom to slow the decline. It can be voted down but in 2 years the biomass will be gone in Zone 1 and in 2 years Zone 2 will be done.

C. Pendleton: Is there an unwritten agreement about September?

M. Hunter: Traditionally Zone 1 fished September. Zone 2 opened October 1 for their early season.

Lately September has seen big demands, good price though not the best quality but no global competition i.e., Calif., Canada. Processors commented that they wanted the last 2 weeks in September for holiday in early October. The SUZC was reluctant to use September due to the 10 day only season. The changes were made based on comments. Whether Zone 2 can produce quality urchins in September is unknown.

C. Pendleton expressed concern that in his opinion this is a breakdown in co-management. The season decisions should have been made more locally. This is similar to shrimp with such a short season they shouldn't be going. This fishery doesn't know if there will be a future. The SUZC failed between the 2 zones here with a rift. There's a big gap between the Department and industry. Only half agree with Blair. Although, industry let it come this far, this is a learning experience, not one denies there is a problem.

R. Smith indicated the Downeast Plan should be voted on as the season and the only difference is that the early and late seasons are not in the same days and suggested a motion be made.

The Chair asked that the discussion requested on both zones be finished before motions.

D. Turner indicated he was able to attend the Ellsworth hearing, however due to meeting conflicts was unable to attend the hearing in Machias, closer to his area of Cobscook Bay. The proposal seemed very much opposed. It is better to address this through regulations than legislation. If denied and there is no season that process is wrong however he has faith in the Commissioner to see beyond that. He expressed concerns about the "other Maine" issues; concerns about the Cobscook Bay scallop fishery having a substantial number of boats there at the start of scallop season for example. This is a tough issue and should be started on earlier next year, not done at the last minute.

Comm. Lapointe: This has not been done to be punitive; it has been done as the best thing to do for the urchin fishery and resource. To say that 10 days is no good was changed to 10 days based on persons who said 10 days is better than zero and going from 10 days to 45 days down east was based on the scientists input. We revisited with the SUZC several times and kept coming back to the severe cuts. We know the impacts on the processors too. The overall number of days spans 80-82 days. Co-management doesn't mean we agree with everything and we haven't been using co-management that long. Regarding law enforcement, we have approximately 45 personnel that will have 20 on the water at any one time; we rely on community enforcement and that can't change any time soon.

B. Sutter: The sustainable level was unknown back during the boom years. Now we've had attrition for 3-4 years so the lower number of harvesters may approach a sustainable level. Tote limits: 6 boxes equal a days pay; on one boat with 4 harvesters you'd have 24 totes. Discussion about earnings to harvester(s) and earnings to the boat. A six-tote limit wouldn't work for a dragger. There is a huge population offshore that is unexploitable. The buyers at the hearings indicated there was not enough of a season over time; they need 6 months accessibility to the product. The commentators were opposed. The processors need September to establish relationships with their buyers. It takes the SUZC many meetings to pick the days. The 45 and 10 days seasons are way outside what industry proposed and should not be approved.

Chair: This sounds a lot like groundfish conversations; harvesters were cut away; perhaps if we'd made a tougher decision earlier it would be better now; they have our sympathy but we also have a responsibility to conserve the resource.

Comm. Lapointe: Regarding what is a sustainable level, the difference is a 3 year history versus a 30 year history for groundfish and is not the reason for not taking action. These are Maine and New Hampshire scientists recommendations not NMFS who are saying that 45 and 10 days seasons may be too much and therefore we must curtail harvest to conserve. In February I said zero season and backed away based on science, staff and the SUZC however, the level of harvesting now is not sustainable.

Motion: (B. Pyne, R. Mitchell) To accept as written the rulemaking for **Zone 1 season**.

Discussion: Procedural questions about amendments.

M. Danforth asked to have more than one choice next time.

B. Sutter recommended defeating and having DMR proceed with another rulemaking in line with industry.

D. Turner asked if voted down there would be zero days but the Commissioner can today recommend an alternative or the same or not? The Commissioner indicated yes to his questions.

S. Tilton asked about the SUZC recommendation on Zone 1 and M. Hunter explained that according to the minutes of the SUZC they voted for a Zone 1 40-day season with a tray limit.

Motion continued:

Approved: Blair Pyne, David Turner, Rod Mitchell, Al West, Craig Pendleton, David Pecci, Scott Tilton, Dana Rice, Sr.

Opposed: Allyson Jordan, Ralph Smith, Larry Knapp, Mike Danforth, Bill Sutter

Passed by 8 affirmative votes representing a majority of the 13 members present.

Motion: (B. Pyne, R. Mitchell) To accept as written the rulemaking for **Zone 2 season**.

Discussion: None

Motion continued:

Approved: Blair Pyne, Rod Mitchell, Al West, Craig Pendleton, David Pecci, Scott Tilton, Dana Rice, Sr.

Opposed: Allyson Jordan, David Turner, Ralph Smith, Larry Knapp, Mike Danforth, Bill Sutter

Passed by 7 affirmative votes representing a majority of the 13 members present.

Chapter 34.10(1)(B)&(C) Maine Groundfish Management Plan

Dep. Comm. Lew Flagg gave a brief review; primarily for Amendment 13 consistency.

C. Pendleton raised questions about possession and enforcement in section (C)(6) concerning how enforcement would prove the cod were taken from Maine waters versus Federal waters and suggested removing the entire paragraph.

Dep. Comm. Flagg explained that the provision addresses the person who only fishes with a Maine permit and does not hold a federal permit.

C. Pendleton cited examples of gillnetters catching 800 pounds now inside 3 miles and would be in violation of this.

Comm. Lapointe asked to table this item until next meeting and that a conference call be held to discuss this issue by Dep. Comm. Flagg, Col. Fessenden, C. Pendleton and A. Jordan and go over these points.

Motion: (R. Mitchell, R. Smith) *To table until next meeting with a subcommittee to conference call.*

Discussion: None.

Motion continued: *Unanimous*

Chapter 55.04 Maine Bait Gillnet Fishing Regulations

Motion: (R. Mitchell, B. Pyne) *To accept as written.*

Discussion: None

Motion continued: *Unanimous*

4. Other Business

DMR staff Heidi Bray and David Libby representing the Department's landings program gave a PowerPoint presentation on the changes in progress and compliance with the federal program.

Discussion topics: Why dealers vs. harvesters; reconciling trips through dealers; the federal software doesn't work well; using unique vessel trip report numbers (VTR#'s); 24 hour reporting for dealers vs. vessel reporting 1/wk vs. 30 day reporting; include recreational data from the charter fleet; looking for volunteers from industry to work on new regulations; will be back with an update.

The Commissioner thanked the members for their work on some very tough issues discussed today.

B. Pyne read an anonymous letter regarding cash buying at wharves vs. lobster businesses. Cash purchased lobster is illegal under taxation rules and they put legal operators at a disadvantage.

New agenda items should be requested through the Chair and Commissioner.

Motion: (B. Pyne, A. Jordan) *Unanimous. The Council voted to adjourn.*

The next scheduled meeting is Wednesday, September 15, 2004.